

Draft Environmental Assessment

Witt Roadside Menagerie

April 20, 2012



***Montana Fish,
Wildlife & Parks***

Region 2 Office
3201 Spurgin Rd.
Missoula, MT 59804
Phone 406-542-5500
Email fwprg22@mt.gov

Draft Environmental Assessment MEPA, NEPA, MCA 23-1-110 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. Type of proposed state action:

The issuance of a Roadside Menagerie License by Montana Fish, Wildlife & Parks (FWP) to Salima Witt for 3 wild animals (2 monkeys and 1 macaque). The menagerie would be located at 613 Lake Como Road, Darby, MT. If granted, the License would be valid through December 31, 2012, and it would require yearly renewal prior to December 31 for the coming year.

2. Agency authority for the proposed action:

Roadside menageries are regulated through the provisions set forth in § 87-4-801 et al. of Montana Code Annotated (MCA), in Rule Number 12.6.1301 et al. of the Administrative Rules of Montana (ARM), and in license stipulations, if any, established through the permitting process. Roadside menageries allow the possession of some exotic wildlife that are normally restricted in the state of Montana and also can allow for using wild animals for exhibition or attracting trade.

3. Name, address and phone number of project sponsor (if other than the agency):

Salima Witt
613 Lake Como Road,
Darby Montana 59829
443-336-6508

4. Anticipated Schedule:

Estimated Commencement Date: Construction of facility was underway and nearly completed at the time that the scheduled site visit to evaluate the project with the applicant was conducted.
Estimated Completion Date: 03/15/2012
Current Status of Project Design (complete): 90%

5. Location affected by proposed action (county, range and township; included map):

County: Ravalli
Township: 4 N
Range: 21W
Section: 28

6. Project size--estimate the number of acres that would be directly affected and are currently:

	Acres		Acres
(a) <i>Developed:</i>	<0.5	<i>Productive:</i>	0
<i>Residential</i>	0	<i>Irrigated cropland</i>	0
<i>Industrial (existing shop area)</i>	0	<i>Dry cropland</i>	0
<i>Open Space/ Woodlands/Recreation</i>	0	<i>Forestry</i>	0
<i>Wetlands/Riparian Areas</i>	0	<i>Rangeland</i>	0
<i>Floodplain</i>	0	<i>Other</i>	0

7. Permits, Funding & Overlapping Jurisdiction.

- (a) **Permits:** permits would be filed at least 2 weeks prior to project start.

Agency Name	Permits
US Department of Agriculture	Class C Exhibitor Permit

- (b) **Funding:**

Agency Name	Funding Amount
None	

- (c) **Other Overlapping or Additional Jurisdictional Responsibilities:**

Agency Name	Type of Responsibility
Montana Department of Livestock	Import Permit

8. Narrative summary of the proposed action:

On January 12, 2012, FWP Region 2 received an application for a roadside menagerie permit to be located northwest of Darby, Montana (see Figure). The applicant proposes housing one Common Squirrel Monkey (*Saimiri sciureus*), one Black Handed Spider Monkey (*Ateles geoffroyi*), and one Celebes Crested Macaque (*Macaca nigra*) indoors in an enclosed 16-ft by 20-ft heated and insulated outbuilding located directly east of the main residence. The facility includes a window on the east side of the building. It also includes a double-door system on the south side of the facility that allows access to the building without actually opening the door to the area where the animals are to be kept and also allows access to the animals without having a direct opening to the exterior of the building. Upon completion, the area between the doors would be suitable for treatment of the animals by a veterinarian. A second exterior door also located on the south side of the building would provide direct access to a caged area, allowing the animals to be out of the building in suitable weather. This caged area would be of such strength and type of construction that said animals should not be able to escape.

The application was reviewed and determined to be complete in early February, 2012 by FWP. In accordance with the Montana Environmental Policy Act (MEPA), FWP is required to prepare an Environmental Assessment (EA). The EA considers the impacts to the physical and human environments if a roadside menagerie permit were to be granted. Three alternatives were considered by FWP: 1) Do not issue the permit (no action); 2) issue the permit; and 3) issue the permit with stipulations to mitigate identified impacts. If a permit is issued, FWP has further responsibility to inspect and approve cages and facilities for size, strength and general animal welfare (ARM 12.6.1532).

9. Description and analysis of reasonable alternatives:

Alternative 1: No Action. Under this alternative, a roadside menagerie license would not be issued. This alternative would only be adopted if the menagerie were prohibited by local ordinance, the applicant was unfit due to past violations pertaining to animal welfare or other applicable statutes, or the EA or public comment identified significant impacts to the human or physical environments that could not be mitigated.

Alternative 2: Issue the License. Under this alternative, the roadside menagerie license would be issued pending inspection and approval of the cages. The identified impacts to the human and physical environments would all be judged to be minor and easily mitigated through routine sanitation, sound food storage, and sound cage design and construction.

Alternative 3: Issue the License with Stipulations (Preferred Alternative). Under this alternative the roadside menagerie license would be issued with stipulations to mitigate identified impacts.

List suggested conditions attached to this license:

1. If the applicant adds animals of the same species to the menagerie, FWP would require confirmation that new animals were of the same sex as those of the same species already in the menagerie. *(Addition of animals of the same species for breeding purposes would require a supplemental evaluation.)*
2. FWP has the right and responsibility under § 87-4-806, MCA to conduct periodic inspections of roadside menageries. Other state and local ordinances regarding animal welfare may also apply.
3. If the animals are to be exhibited off-site, FWP must ensure that the animals are transported to and from the exhibition locations in a suitable cage. Exhibition off-site would require authorization from FWP, and the applicant would be required to sign an indemnity agreement that indemnifies FWP should any property damage or personal injury take place. *(This is consistent with the FWP policy regarding off-site exhibition of roadside menagerie animals.)*
4. No public contact would be allowed with the animals covered under the menagerie permit unless authorization is provided on a per species basis by FWP with accompanying mitigation measures. *(This is consistent with the FWP policy regarding exhibition of roadside menagerie animals.)*
5. Because of the potential that the animals could have a diagnostic or medical need, which would require transport off-site, the applicant must provide a detailed veterinary plan, including the name and license number of the veterinarian which shall be used, the location of the veterinarian, and a detailed plan on how the affected animal would be transported to said location.

10. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

- a. The Ravalli County Attorney advised FWP that Ravalli County Ordinance #16 (Animal Protection Services Ordinance) is not applicable.
- b. The USDA has already issued a Class C Exhibitor permit to Salima Witt.
- c. FWP checked by telephone on 02/23/2012 with Ravalli County to see if they had any restrictions on these animals. It appears that Ravalli County has no restrictions on these animals.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?		X				
c. Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				

2. <u>AIR</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)		X				
b. Creation of objectionable odors?			X		Yes	2.b
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regulations? (Also see 2a.)	NA (Not Applicable)					

2.b Under ARM 12.6.1304, "All cages or other enclosures shall be cleaned at least once a day and said enclosures and their surroundings shall be kept in a sanitary and attractive condition, free from offensive odor."

3. WATER Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?			X		Yes	3.h
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)	NA					
m. For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)	NA					

3.h Discharged water from cage cleaning would be captured in a 250-gallon underground septic tank and disposed of via septic tank pumping operation.

4. <u>VEGETATION</u> Will the proposed action result in?	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		X				
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				
f. For P-R/D-J, will the project affect wetlands, or prime and unique farmland?	NA					
g. Other:						

5. <u>FISH/WILDLIFE</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?		X				
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?			X		Yes	5.d
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		X				
h. For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)	NA					
i. For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)	NA					

5.d While it is unclear what the survivability of the proposed species would be in the event of an escape, enclosure requirements set forth in ARM 12.6.1302 for housing wild animals would reduce the possibility of escape.

B. HUMAN ENVIRONMENT

6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Increases in existing noise levels?			X		Yes	6.a
b. Exposure of people to severe or nuisance noise levels?			X		Yes	6.b
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				

6.a These animals could slightly increase noise levels in the vicinity of the facility, but the roadside menagerie is in a rural area with no close neighbors.

6.b see 6.a.

7. <u>LAND USE</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				

8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?			X		Yes	8.c
d. For P-R/D-J, will any chemical toxicants be used? (Also see 8a)	NA					

8.c. There is potential for human health concerns with exotic species due to the possibility of contact of zoonotic diseases (which can be transmitted from animals to humans). These concerns would be mitigated through restrictions on public contact and requirements in ARM for housing.

9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				

10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:			X		Yes	10.a
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased use of any energy source?		X				
e. Define projected revenue sources	NA					
f. Define projected maintenance costs.	NA					

10.a FWP has the responsibility under § 87-4-801 et al., MCA, to provide and review applications for roadside menageries. The process involves both the Wildlife and Enforcement Divisions of FWP. Licensees have the responsibility for cage construction, animal welfare, and record keeping. Issuance of a roadside menagerie permit would slightly increase FWP involvement via occasional inspections of the facility. In the event the facility is not being run in accordance with the applicable statutes and administrative rules, FWP can impose stipulations and/or fines, confiscate animals, and/or revoke permits without right of renewal.

11. <u>AESTHETICS/RECREATION</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)		X				
d. <u>For P-R/D-J</u> , will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c.)	NA					

12. <u>CULTURAL/HISTORICAL RESOURCES</u> Will the proposed action result in:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?	X					12.a
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. <u>For P-R/D-J</u> , will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)						

12.a The effect on Historical and Archeological sites cannot be evaluated. There are numerous Native American and Historic Logging sites identified at the Lake Como area directly to the west of and bordering the proposed project. Because of its status as private property, no survey has been conducted in this portion of Section 28.

SIGNIFICANCE CRITERIA

13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u> Will the proposed action, considered as a whole:	IMPACT					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)	NA					
g. For P-R/D-J, list any federal or state permits required.	NA					

PART III. NARRATIVE EVALUATION AND COMMENT

The proposed action, issuance of a roadside menagerie license to Salima Witt, would not involve any significant effects on the human or natural environment. Identified minor impacts can be mitigated: Potential odors would be limited to Witt's private property and controlled by daily cage cleaning, water from cage cleaning would be captured and disposed of properly, and animal noise would likely be limited to the immediate facility area and there are no nearby neighbors. There is also potential risk of exotic wildlife escaping, but off-facility survival of the monkeys or macaque is deemed unlikely and risk of escape would be mitigated by caging requirements. Direct risk to the public would be mitigated in that no off-site contact would be allowed unless specifically authorized by FWP, and the applicant would need proof of meeting liability insurance requirements as well as an indemnity agreement with FWP. FWP would be responsible for occasional inspections of the facility to see that it is in compliance with its license requirements.

IV. PUBLIC PARTICIPATION

1. Public involvement:

The public would be notified in the following manners to comment on this current EA, the proposed action and alternatives:

- Two legal notices in each of these newspapers: *Missoulian* and *Ravalli Republic* (Hamilton)
- Public notice and the EA would be posted on the Fish, Wildlife & Parks webpage: <http://fwp.mt.gov> ("Public Notices" under "New")

Copies of this environmental assessment would be distributed to adjacent neighboring landowners and interested parties and agencies to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this scope having limited minor impacts, which can be mitigated.

2. Duration of comment period:

The public comment period will extend for 14 (fourteen) days. Written comments will be accepted until 5:00 p.m. on May 4, 2012 and can be mailed or emailed to the addresses below:

Montana FWP
Attn: Sharon Rose
3201 Spurgin Rd.
Missoula, MT 59804

shrose@mt.gov

PART V. EA PREPARATION

1. Based on the significance criteria evaluated in this EA, is an EIS required? (YES/NO)?

No.

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

Based upon the above assessment, which has identified a limited number of minor impacts (all of which can be mitigated), an EIS is not required, and an environmental assessment is the appropriate level of review.

2. Person(s) responsible for preparing the EA:

Joe Jaquith, warden sergeant, Region 2 FWP
Sharon Rose, administrative assistant, Region 2 FWP

3. List of agencies or offices consulted during preparation of the EA:

Ravalli County Sheriff, Hamilton
Ravalli County Attorney, Hamilton
Ravalli County Public Health Department, Hamilton
Bitterroot National Forest Historian, Hamilton
Rocky Mountain Lab Veterinarian, Hamilton